

DIRECT TESTIMONY

OF

MARK A. HANSON

RATES DEPARTMENT

TELECOMMUNICATIONS DIVISION

ILLINOIS COMMERCE COMMISSION

ICC ON ITS OWN MOTION

INVESTIGATION CONCERNING ILLINOIS BELL TELEPHONE COMPANY'S

COMPLIANCE WITH SECTION 271 OF THE TELECOMMUNICATIONS ACT

OF 1996

DOCKET NO. 01-0662 (PHASE 1)

MARCH 20, 2002

INTRODUCTION

Q. State your name and business address.

A. My name is Mark A. Hanson. My business address is 527 East Capitol,
Springfield, Illinois 62701.

Q. By whom are you employed and in what capacity?

A. I am employed by the Illinois Commerce Commission ("Commission") as an
Economic Analyst in the Rates Section of the Telecommunications Division.

Q. Please describe your education and occupational background.

A. I received a Bachelor of Science degree in Commercial Economics from South
Dakota State University in 1978. I received a Master of Science degree in
Economics from South Dakota State University in 1981. From 1981 to 1987, I
was employed by the South Dakota Department of Transportation as a
Transportation Planner. During this time, I also taught evening classes in
economics at Capitol University Center. From 1987 to 1989, I was enrolled in
the doctoral program in Economics at Iowa State University. During that time, I
was employed as an instructor in the Agricultural Business and
Transportation/Logistics departments. From June 1990 to January 2000, I
worked for Illinois Power Company. I was employed by Illinois Power as a
Forecast Specialist, Regulatory Matters Specialist, Gas Supply Specialist, and
Competitive Pricing Specialist. I joined the Staff of the Commission in July of
2000.

26

27 **Q. Briefly describe your work duties with the Illinois Commerce**
28 **Commission.**

29 A. My responsibilities include reviewing wholesale and retail tariff filings of both
30 competitive and non-competitive telecommunications services, providing
31 support to other Commission Staff and analysis on cost study issues in
32 docketed cases that have cost of service and rate implications.

33

34 **Q. Have you previously testified before any regulatory agencies?**

35 A. I have testified before this Commission in Docket Nos. 98-0252/98-
36 0335(Consol.), Docket No. 00-0641, Docket Nos. 00-0511/00-0512(Consol.),
37 Docket No. 01-0479, Docket No. 01-0279, and Docket No. 00-0812. I have
38 also testified before the Federal Energy Regulatory Commission.

39

40 **Q. What is the purpose of your testimony?**

41 A. I will address whether Ameritech Illinois (AI or Company) has satisfied some of
42 the requirements necessary for it to be granted authority to offer inter-LATA
43 services in the state of Illinois. I will address certain issues under three
44 categories from the competitive checklist in Section 271 of the
45 Telecommunications Act of 1996. The three competitive checklist items I
46 address in part are:

47 Checklist item 1: Whether AI offers interconnection in accordance with the
48 requirements of Sections 251(c) (2) and 252(c) (1).

Checklist item 3: Whether AI offers nondiscriminatory access to the poles, ducts, conduits, and rights-of-ways it owns or controls at just and reasonable rates in accordance with the requirements of Section 224.

Checklist item 14: Whether AI makes telecommunications services available for resale in accordance with the requirements of Sections 251(c)(4) and 252(d)(3).

Q. Please provide a summary of your findings and recommendations.

A. Based on information available to Staff to date in this docket, Ameritech Illinois appears to be in compliance with the aspects of checklist item number 3 and 14 that I reviewed. Specifically, it appears that AI offers nondiscriminatory access at just and reasonable rates to the poles, ducts, conduits, and right-of-ways it owns or controls. In addition, AI appears to meet part of its obligations under competitive checklist item 14 by applying resale discounts consistent with the Commission's order on this issue and by providing nonrecurring charges associated with offering resale rates at just and reasonable rates. Although I am not aware at this point in this proceeding of any issue that may impact my analysis, I reserve my opinion on whether these two checklist items have been met until I have heard all of the evidence presented by the parties in both phases of this proceeding.

However, the collocation rates AI offers in its general interconnection agreement do not reflect the rates it must offer under its filed tariffs. Therefore, I recommend that the Commission not provide a positive consultation to the

FCC on AI's Sec. 271 application until AI reflects its tariffed collocation rates in its general interconnection agreement offered to competing carriers.

Checklist Item 1 – Interconnection

Q. What specific areas are you addressing under Checklist item 1?

A. I will address rate issues for collocation services, specifically whether the rates that Ameritech Illinois charges for collocation services are appropriate and whether those rates are transparent and properly applied.

Q. Please describe the interconnection requirement under Sec. 271.

A. Section 271(c)(2)(B)(i) of the 1996 Telecommunications Act requires a section 271 applicant to provide interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1). Section 251(c)(2) requires ILECs to

...provide, for the facilities and equipment of any requesting telecommunication carrier, interconnection with the local exchange carrier's network---

for the transmission and routing of telephone exchange service and exchange access;

- (A) at any technically feasible point within the carrier's network
- (B) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and
- (C) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

As explained in greater detail in Staff Witness Koch's direct testimony (ICC

Staff Ex. 6.0) the FCC has held Total Element Long Run Incremental Cost (TELRIC) based rates as “just and reasonable.” Therefore, in the context of Sec. 271 applications, meeting the “just and reasonable” rates requirement necessitates a showing that the rates are consistent with TELRIC principles.

In addition, as explained in Staff witness Zolnierrek’s testimony (ICC Staff Ex. 2.0) the FCC has identified market uncertainty as a factor that impairs the provision of competitive services. I will present in my testimony how AI’s current practice of failing to reflect tariffed rates in its interconnection agreement offerings creates market uncertainty.

Q. What was Ameritech Illinois’ position with respect to collocation rates issues under checklist item 1?

A. AI witness Barbara Smith states that Ameritech Illinois filed collocation rates and a cost study supporting those rates in Docket No. 99-0615¹. The Commission entered its final order in that docket on August 15, 2000. In that Order, the Commission directed AI to file new tariff sheets reflecting the Commission’s findings in that proceeding. Additionally, the Commission ordered Ameritech Illinois to file a new cost study with the Commission in 60 days. AI filed a revised cost study. However, it did not file new tariff rates reflecting the costs in the revised cost study. As a result, the Commission has not investigated this revised cost study. Therefore, the interim collocation rates ordered by the Commission in Docket 99-0615 are still in effect. The tariff

¹ Ameritech Exhibit 10.0 at 2

124 sheets containing those rates became effective on September 15, 2000. On
125 this basis, Ms. Smith concludes that AI's collocation rates are compliant with
126 TELRIC principles, thus, satisfying its requirements under checklist item 1.

127
128 **Q. Do you agree with Ms. Smith's conclusion that AI has satisfied its**
129 **obligations under checklist item 1?**

130 A. As Ms. Smith stated, AI complied with the Commission order to put interim
131 collocation rates into effect and to file a cost study with the Commission as
132 ordered. Interim rates *per se* do not mean that AI has not satisfied its checklist
133 obligations. In Verizon's Section 271 filing for the State of Connecticut, the FCC
134 concluded:

135 "Consistent with the Commission's precedent, the mere
136 presence of interim rates will not generally threaten a
137 section 271 application as long as the (1) an interim
138 solution to a particular rate dispute is reasonable under the
139 circumstances; (2) the state commission has demonstrated
140 its commitment to the Commission's pricing rules; and (3)
141 provision is made for refunds or true-ups once permanent
142 rates are set."²
143

144 In Docket No. 99-0615, the Commission found that:

145 "We agree with Staff and the CLECs that many of
146 Ameritech's proposed costs are overstated, and that the
147 cost support it provided is "grossly insufficient". While
148 Ameritech notes that this Commission will have a further
149 opportunity to review Ameritech's collocation costs, we find
150 that future compliance is not an acceptable answer. While
151 we realize they are not perfect, we will adopt Staff's
152 recommended rates. Upon the conclusion of the general
153 investigation into the cost methodology used to price
154 collocation services, Ameritech will be instructed to file
155 tariffs with prices based upon the costs approved there."³

² FCC 01-208 Appendix C paragraph 22

³ ICC Docket No. 99-0615 at 22

Furthermore the Commission ordered:

“Ameritech’s cost studies and the prices thereon should be rejected because its cost support is insufficient. Ameritech shall file new cost studies based on an efficient, forward-looking environment consistent with our conclusions herein within 60 days of the effective date of this Order. In the interim, we adopt Staff’s recommendations; Ameritech’s prices, as adjusted by Staff are accepted as interim rates until the outcome of the upcoming docket examining the entirety of rates to be charged for collocation.”⁴

In Docket No. 99-0615, Ameritech Illinois’ cost study and associated rates did not comply with TELRIC pricing principles, since in many respects AI overstated those costs. As an interim measure, the Commission did impose rates suggested by Staff. However, the Commission recognized that this was not an optimal outcome. The Commission ordered Ameritech Illinois to file a new collocation cost study. Ameritech Illinois did comply with this Commission directive. However, AI did not take the next step by filing rates based upon those costs. The Company should have filed a tariff based upon the new costs so the Commission could review the tariff filing and either suspend the tariff, investigate it, or determine that neither suspension or investigation is appropriate. As noted, AI did not do this. Therefore, at this point, the interim rates ordered in Docket No. 99-0615 remain in effect. In order to fully establish TELRIC compliant rates, AI should file rates based on its new cost study.

⁴ ICC Docket No. 99-0615 at 26

183 However, for purposes of this Section 271 proceeding, it appears that AI has
184 met the 3-part standard set forth in the Verizon Connecticut Order. AI filed a
185 set of collocation rates based on a standard that the Commission found
186 reasonable. Additionally, this Commission has demonstrated its commitment to
187 the FCC's pricing rules. Thirdly, although the Commission did not order a true
188 up for the interim collocation rates although it did fully consider the issue in the
189 proceeding. However, it has not been a customary practice for this
190 Commission to order true ups on interim rates. Thus I conclude that for the
191 limited purpose of determining compliance with Section 271 checklist, AI has
192 met its obligation to provide collocation rates that are just and reasonable.

193
194 **Q. Have you identified any issues, that in your opinion, cast doubt upon AI's**
195 **compliance with Checklist Item #1.**

196 A. Yes. I have another issue that concerns the interaction of Ameritech Illinois'
197 tariff sheets and the pricing appendix attached to SBC's 13 state General
198 Interconnection Agreement ("GIA").

199
200 **Q. What is the General Interconnection Agreement(GIA)?**

201
202 A. According to AI witness Alexander , "The GIA is a comprehensive contractual
203 offering that contains terms and conditions for the collocation, interconnection,
204 UNE, reciprocal compensation, resale, and related wholesale products required
205 by the FCC. In addition, the GIA can be and is used by CLECs as the basis for

interconnection agreement negotiations with Ameritech.” The GIA is available for viewing on Ameritech’s CLEC website.⁵

The GIA is a standard document covering SBC’s 13 state area. In addition to the generic agreement language for the 13 states, there is some state specific language and pricing. There are six documents that are specific to Illinois. Of these six, three address issues on recourse credits, pricing, and ICC ordered performance measures. The other three documents address pricing information on UNEs, collocation, resale, and merger commitment promotions.

A CLEC can elect to enter into an agreement with SBC by agreeing to the GIA contained on the website or the CLEC and SBC can negotiate terms and conditions which differ from the GIA. If the CLEC and SBC cannot come to an agreement on some aspect of an interconnection agreement, they can petition the Commission for arbitration under Section 252 of the Telecommunications Act of 1996. Typically, the GIA serves as a starting point for negotiations. Thus, it is critical to evaluate the GIA to determine what impact it has on AI’s compliance with the Section 271 checklist.

Q. Does the General Interconnection Agreement have state specific information?

A. Yes, the website offers various appendices which contain state specific

⁵ <https://clec.sbc.com/unrestr/interconnect/multi/index.cfm>.

information on some items, principally pricing issues. For instance, the website contains an Excel spreadsheet titled "Illinois Pricing." Upon opening the spreadsheet, the user will encounter two worksheets in the file. The first worksheet contains pricing for unbundled network elements and the second worksheet contains pricing for collocation services. These are AI's proposed pricing for services under the General Interconnection Agreement. Under the rules governing interconnection agreements, the parties can mutually agree on changes to the agreement, including pricing. If the parties cannot agree on all issues, they can take the agreement to a State Commission for arbitration under Section 252 of TA96.

Q. Do you have any issues with the collocation pricing contained in the GIA?

A. When I reviewed collocation offerings and prices in the GIA pricing appendix for Illinois, I determined that the collocation services and prices offered in the GIA are not the same as those offered in Ameritech Illinois tariffs. Upon further review, I determined that the uniform service ordering codes ("USOC") for the services are different. There was not one USOC code for a service contained in the Illinois tariff that was also contained in the Collocation pricing appendix for Illinois.

Q. Why is this a problem?

A. As Staff witness Dr. Zolinerek states⁶, "[t]he FCC has identified market

⁶ Staff Exhibit 2.0 at

uncertainty as a factor that can impair the usefulness of unbundled elements as a method of providing competitive services.” In my opinion, AI’s competitors face a significant degree of uncertainty when AI is offering one set of services and rates in its GIA, and another set of services and rates in its tariffs. The presentation of collocation rates in the General Interconnection Agreement obscures the fact that there is an entire set of different services at different prices that AI must offer its interconnection customers under Illinois law. CLEC customers of AI may or may not find these rates and services attractive. However, they should be identified in the interconnection agreement so that CLEC customers can readily make that determination.

Q. Please summarize your critique of the Company in this section of your testimony and identify your recommendations.

A. Ameritech Illinois does not meet the requirements of Checklist Item 1 at this time in one important respect. The collocation rates that it offers in its general interconnection agreement do not reflect the different rates it offers under its filed tariffs, thus, creating market uncertainty that can negatively impact competition. Therefore, I recommend that the Commission not provide a positive consultation to the FCC on AI’s Sec. 271 application until AI reflects its tariffed collocation rates in its general interconnection agreement offered to competing carriers.

271

272 **Checklist Item 3 – Poles, Ducts, Conduits and Rights of Way**

273

274 **Q. Please explain the Section 271 requirement pertaining to checklist item 3**
275 **– access to poles, conduits, ducts and rights-of-way.**

276 A. The requirement involves the provisioning by the incumbent local exchange
277 carrier of “nondiscriminatory access to the poles, ducts, conduits, and rights-of-
278 way owned or controlled by the Bell operating company at just and reasonable
279 rates in accordance with the requirements of section 224.”⁷

280

281 **Q. How are the issues you raise in this section of your testimony relevant to**
282 **these requirements?**

283 A. My testimony addresses the charges the Company offers for pole attachments,
284 ducts, and rights of ways. This is relevant to an assessment of whether such
285 charges are “just and reasonable” as required by this checklist item.

286

287 **Q. Please describe what issues associated with Checklist Item 3–poles,**
288 **conduits, ducts, and rights-of-way that you will be discussing.**

289 A. I will discuss the rates and charges for pole attachments, ducts, and rights of
290 ways. Staff witness Russ Murray (ICC Staff Ex. 7.0) addresses all other
291 matters pertaining to this checklist item.

292

⁷ 47 U.S.C. § 271(c)(2)(B)(iii).

293 **Q. Who are the AI witnesses testifying on this issue and what are their**
294 **positions?**

295 A. Marcia Stanek addressed the rate issues associated with pole attachments in
296 her verified affidavit⁸. Barbara Smith addressed the cost methodology in her
297 verified affidavit.

298
299 Ms. Stanek states that AI's current rates for pole attachments were approved
300 by the Commission order in Docket No. 98-0397 on August 14, 2001. Ms.
301 Smith states in her affidavit⁹ that the FCC's approved method for pole
302 attachment pricing does not follow the TELRIC pricing guidelines. Ms. Smith
303 states that AI's current costing method for pricing pole attachments follows the
304 method ordered by the FCC in its Reconsideration Order. This is the method
305 adopted by AI and approved by the Commission in Docket No. 98-0397.

306
307 **Q. What is your position on this issue?**

308 A. In Docket No. 98-0397, the Commission approved pole attachment rates for
309 Ameritech Illinois. Ameritech Illinois filed tariff sheets implementing those rates
310 on September 15, 2001. Additionally, the pricing appendix for Illinois located on
311 AI's General Interconnection Agreement has pole attachment rates that
312 correspond to the rates found on Ameritech Illinois' tariffs. Based on this
313 evidence, I believe Ameritech Illinois has satisfied the "just and reasonable"
314 rates requirements under Checklist Item 3.

⁸ Stanek affidavit at 12

⁹ Smith affidavit at 15

315

316 **Checklist Item 14 - Resale**

317

318 **Q. Please explain the Section 271 requirement pertaining to Checklist Item**
319 **14 - resale.**

320 A. This competitive checklist item requires telecommunications services to be
321 made available for resale in accordance with the requirements of Sections
322 251(c)(4) and 252(d)(3).¹⁰

323

324 **Q. How are the issues you raise in this section of your testimony relevant to**
325 **these requirements?**

326 A. My testimony addresses the Company's compliance with a Commission order
327 that addresses resale discounts. As I noted earlier in my testimony, the
328 Company's compliance with applicable Commission orders is relevant to a
329 finding of compliance with the requirements of Sec. 271. In addition, I address
330 whether resale rates are just and reasonable.

331

332 **Q. Please describe what issues associated with Checklist item 14, resale,**
333 **you will address.**

334 A. I will address whether Ameritech Illinois appropriately applies resale discounts
335 in the manner ordered by the Commission in Docket No. 95-0458/95-0531. I
336 will be also discussing whether AI's nonrecurring charges associated with

¹⁰ 47 U.S.C. § 271(c)(2)(B)(xiv).

offering resale rates are just and reasonable. Other requirements pertinent to this competitive checklist item is addressed in Staff witness Qin Liu's direct testimony. (ICC Staff Ex. 10.0).

Q. Who were the AI witnesses describing these issues and what are their positions?

A. Ameritech Illinois witness Scott Alexander discusses issues related to resale pricing in his affidavit.¹¹ In her affidavit, Ms. Smith addresses the method by which AI calculates resale discounts.

Ms. Smith states that

"The 1996 Act requires that wholesale rates be determined on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided" in accordance with 47 U.S.C. 252(d) (3). Federal regulations, set out in 47 C.F.R. 51.609 were issued to amplify and elaborate on this pricing standard."¹²

Furthermore, Ms. Smith describes how this Commission determined in Docket No. 95-0458/0531 (Consol.) that AI should also remove a pro rata share of contribution pertaining to the avoided retail offerings. Ms. Smith states that AI did comply with this order when filing wholesale rates.¹³

Q. What is your opinion on the issue of resale discounts?

¹¹ Alexander affidavit at pages 63-63

¹² Smith affidavit at 18-19

363 A. When AI offers a new service or changes the rate of an existing service, Staff
364 determines whether the resale discount is appropriately applied. It is my
365 current understanding that AI's resale discount rates have been appropriately
366 reflected in their tariffs. Therefore, in my opinion, Ameritech Illinois has
367 properly determined the level of wholesale discounts.

368
369 **Q. What is your opinion on the issue of wholesale non-recurring costs?**

370 A. I have not found anything in either AI's verified statements or testimonies that
371 directly address this issue. My research indicates that these rates were
372 established as part of the proceeding in Docket No.95-0458/0531. Since that
373 time, some of the rates have been reduced as a part of AI's annual alternative
374 regulation compliance filings. I am of the opinion that these rates are just and
375 reasonable.

376
377 **Q. Does this conclude your testimony?**

378 A. Yes, it does.
379
380

¹³ Smith affidavit at pages 18-19